

Before the
Federal Communications Commission
Washington, DC 20554

In the matter of

2002 Biennial Regulatory Review—Review)	
of the Commission’s Broadcast Ownership)	
Rules and Other Rules Adopted Pursuant to)	MB Docket No. 02-277
Section 202 of the Telecommunications Act of 1996))	
)	
Cross-Ownership of Broadcast Stations and)	MM Docket No. 01-235
Newspapers)	
)	
Rules and Policies Concerning Multiple)	
Ownership of Radio Broadcast Stations)	MM Docket No. 01-317
In Local Markets)	
)	
Definition of Radio Markets)	MM Docket No. 00-244

COMMENTS OF THE
ALLIANCE FOR COMMUNITY MEDIA
January 2, 2003

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BACKGROUND

The Alliance for Community Media (Alliance) is a national nonprofit membership organization that educates and advocates on behalf of Public, Educational and Governmental (PEG) access television in the United States. The Alliance is the only national organization of this type and is widely recognized as *the* foremost authority on all matters related to Public, Educational and Governmental (PEG) access television. The Alliance is committed to assuring everyone's access to electronic media and the Alliance advocates this goal through public education, a positive legislative and regulatory agenda, coalition building and grass roots organizing. Founded in 1976, the Alliance is now in its 26th year as a 501c3 association.

There are approximately 1,500 PEG access centers in the United States with approximately 5,000 cable television channels dedicated to PEG access. In addition to representing these centers and channels, the Alliance hosts the largest and oldest annual PEG video festival in the country; each year hosts an international conference and trade show and eight regional conferences and trade shows; publishes a quarterly journal on matters related to PEG (*Community Media Review*); hosts five listservs with approximately 500 subscribers; maintains a website and publishes a membership newsletter; litigates on behalf of organizations and individuals; and educates legislators and regulators at the federal, state and local levels.

We commend the Federal Communications Commission (Commission or FCC) for acknowledging in its Notice of Proposed Rulemaking and 2002 Biennial Regulatory Review (FCC 02-249) the important role PEG access television plays in providing diversity and localism

We urge the Commission to consider the comments of the Alliance with due seriousness, as they are based on 26 years of PEG access expertise.

I. PEG ACCESS IS NOT A SUBSTITUTE FOR COMMERCIAL DIVERSIFICATION OR A JUSTIFICATION FOR THE CONCENTRATION OF CROSS-MEDIA OWNERSHIP

There can be no doubt that the development of PEG access television has done many wonderful things for the local communities that are fortunate to have it. But to understand the important role PEG plays in media and communications, it is necessary to understand the separate missions of Public, Educational and Governmental access television.

Governmental access television is a telecommunications vehicle exclusive to government or government agencies (local, regional and national). City and County Council meetings are shown on Governmental access, as well as programs presented by the Fire Department, the Police Department, the Health Department, etc. The Alliance frequently serves as a liaison with national government entities such as the Army, and various other branches of the military, the Federal Emergency Management Administration (FEMA), the Census Bureau, etc. to publicize government programming to our member stations. The government-run stations decide what will be on these channels according to local need and availability. Government access is not a free-speech forum, but instead is a way for government to inform and promote its opinions, services and agenda.

Educational access television is a vehicle for educational entities such as school

districts, community colleges or universities. The programming is varied and includes shows such as after-school “homework assistance programs,” school board meetings and “for-credit” community college and university classes. The United States Department of Education, NASA and other educational entities provide Educational access stations free programming and educational materials. Like Governmental access, Educational access is not a free-speech forum but instead serves as a mechanism for educational institutions to educate and promote their services and agenda.

Of the three types of PEG access, Public access is the only one considered to be a free-speech forum. Public access programming typically is created by individuals or groups in a local community and program topics can vary widely. Public access programming can include: cooking shows; religious and political programming; performing arts programs; opinion shows; and nonprofit services education (such as American Association of Retired Citizens, disabled veteran’s groups, minority and second language groups, trade unions, the American Red Cross, etc.).

As with the other two types of access, Public access is primarily very localized and specialized. Typically there is not a great deal of national or regional content on PEG access, and PEG access certainly is not a vehicle for commercial competition since most franchise agreements as well as PEG access center rules prohibit advertising.

While it is true that PEG access may provide alternate viewpoints, it cannot be

said that it can have much effect on commercial media competition because PEG access does not compete commercially. For example, PEG access cannot necessarily affect which situation comedies become the next season's big hit nor can we necessarily affect how CNN or MSNBC format their news programs or decide what stories of the day are the most important. While at times, PEG programming may affect local newspaper reporting (because it frequently document events in the community via videotape), it is highly doubtful that PEG has any real influence on what rotation schedule radio stations are playing certain music or what websites are being created on the world wide web.

PEG is distinct and separate from almost every other media source available. For that reason it is both important and critical because it fills a need for information not being met by other electronic media. At the same time, the existence of PEG does not justify further concentration of ownership within or across types of media.

II. THE COMMISSION SHOULD PROMULGATE BEHAVIORAL REGULATIONS THAT GUARANTEE PEG ACCESS ON CABLE AND ON DBS IN ORDER TO ENSURE DIVERSITY OF VOICES

PEG access is not a mandatory feature of federal legislation; rather it derives from a statute that permits local communities to require it as part of a franchise agreement with a cable operator. For that reason, PEG access is constantly under attack by cable operators who object to being required to provide channel capacity and financial support to the local community or to the PEG community as a whole. The Alliance for Community Media spends a great deal of time educating local regulators on what their “rights” are and what is allowable to request from a cable operator in exchange for private use of public rights of way.

PEG access exists due to the will of the local community and collective efforts to keep cable operators from succeeding at the state or federal levels through legislation that would change the regulatory structure and “wipe PEG out.” Every member of the Alliance is acutely aware that the existence of PEG access remains precarious. Every member of the Alliance understands that PEG access could be legislated or ruled out of existence tomorrow.

If PEG access is to be considered a part of a public interest remedy to too much media consolidation or cross-media ownership, it must be codified in federal legislation as a requirement of all cable operators and DBS providers. Too often cable companies

are able to lobby, garner favor with, or intentionally mislead local regulators to omit or remove PEG access requirements from franchise agreements or to have PEG access so poorly accommodated (either financially or through unfavorable channel placement) that cable companies' fulfillment of public interest obligations is virtually nonexistent. PEG should not be left to the vagaries of politics, but instead must be guaranteed through clear, unmistakable legislative codification.

Additionally, PEG and the value it brings to the local community should not be confined to cable television, but also should be part of the mandatory carriage of Digital Broadcast Satellite (DBS). While it is true that DBS has a 4% obligation for noncommercial programming of an educational or informational nature, the fulfillment of this obligation has fallen far short due to the lack of any kind of a funding mechanism for this obligation.

Behavioral regulatory parity between cable and DBS would go a long way toward bringing DBS into full compliance with its promise for the 4% set-aside. DBS should be required to provide the equivalent of what the cable operators are asked to provide, that is: channel capacity for PEG access; up to 5% of gross revenues and funding for operations and equipment

PEG access requirements for DBS are critically important for those who live in rural areas where there is no local daily newspaper, no local radio station, no cable

operators and antiquated Inter-net dial-up. Further it is imperative in order to achieve any real sense of media diversity.

PEG is unique in relation to all forms of electronic media, but currently eighteen million satellite households (or roughly 20% of the pay television audience) are prohibited from accessing this media because they reside in areas not served by cable or they have migrated to satellite as a result of competitive choice.

We urge the Commission to promulgate behavioral regulation that would once and for all guarantee the existence of PEG.

III. PEG ACCESS CANNOT EFFECTIVELY BE CONSIDERED COMPETITION TO COMMERCIAL MAINSTREAM MEDIA IN ORDER TO TRULY SATISFY THE NEED FOR DIVERSITY OF VOICES

While there are approximately 1,500 PEG access centers across the United States, the sad fact is that many of these centers are severely under-funded. Thirty-eight percent of all Alliance organizational members report their total yearly budget at under \$100,000 and eleven percent report a total yearly budget of under \$10,000. While somewhere in the United States there may be a television channel being operated on less than \$100,000 per year, that channel does not have near the responsibility for community outreach and training that a PEG center has.

Collectively, PEG access provides over one million hours of locally originated programming each year and trains tens of thousands of citizens and community groups how to produce programming. PEG access does a heroic job of meeting the needs of the local community and providing information and practical technological skills. But, with over one third of PEG access centers operating on less than \$100,000 per year, it cannot be claimed that we have the resources adequate to grant us equal status with commercial mainstream media.

Until this disparity is ameliorated, collapsing media ownership and increasing cross-

ownership of media remains a very serious issue. How ownership is determined by the Commission is critical to a robust exchange of information, viewpoints and ideas, and it speaks directly to the health of this democracy.

Respectfully submitted,

Bunnie Riedel
Executive Director
Alliance for Community Media
666 11th St. NW, Suite 740
Washington, DC 20001

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